

REFERENCE TITLE: juvenile offenders; transfer; property offenses

State of Arizona
House of Representatives
Forty-eighth Legislature
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2007

HB 2707

Introduced by
Representatives Ulmer, Sinema: Ableser

AN ACT

AMENDING SECTION 8-327, ARIZONA REVISED STATUTES; RELATING TO JUVENILE OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 8-327, Arizona Revised Statutes, is amended to
3 read:

4 8-327. Transfer hearing: exception

5 A. The state may request an order of the juvenile court transferring
6 jurisdiction of the criminal prosecution of any felony filed in the juvenile
7 court to the criminal division of the superior court.

8 B. On request of the state that a juvenile be transferred, the court
9 shall hold a transfer hearing before the adjudication hearing.

10 C. If the judge finds by a preponderance of the evidence that probable
11 cause exists to believe that the offense was committed, that the juvenile
12 committed the offense and that the public safety would best be served by the
13 transfer of the juvenile for criminal prosecution, the judge shall order that
14 the juvenile be transferred for criminal prosecution to the appropriate court
15 having jurisdiction of the offense. The judge shall state on the record the
16 reasons for transferring or not transferring the juvenile for criminal
17 prosecution.

18 D. The court shall consider the following factors in determining if
19 the public safety would be served by the transfer of a juvenile for criminal
20 prosecution:

21 1. The seriousness of the offense involved.

22 2. The record and previous history of the juvenile, including previous
23 contacts with the courts and law enforcement, previous periods of any court
24 ordered probation and the results of that probation.

25 3. Any previous commitments of the juvenile to juvenile residential
26 placements and secure institutions.

27 4. If the juvenile was previously committed to the department of
28 juvenile corrections for a felony offense.

29 5. If the juvenile committed another felony offense while the juvenile
30 was a ward of the department of juvenile corrections.

31 6. If the juvenile committed the alleged offense while participating
32 in, assisting, promoting or furthering the interests of a criminal street
33 gang, a criminal syndicate or a racketeering enterprise.

34 7. The views of the victim of the offense.

35 8. If the degree of the juvenile's participation in the offense was
36 relatively minor but not so minor as to constitute a defense to prosecution.

37 9. The juvenile's mental and emotional condition.

38 10. The likelihood of the juvenile's reasonable rehabilitation through
39 the use of services and facilities that are currently available to the
40 juvenile court.

41 E. At the conclusion of the transfer hearing, the court shall make a
42 written determination whether the juvenile should be transferred to the
43 criminal division of the superior court for criminal prosecution. The court
44 shall not defer the decision as to the transfer. If the court determines

1 that the juvenile should not be transferred to the criminal division of the
2 superior court, the court shall set an adjudication hearing.

3 F. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A JUVENILE SHALL NOT
4 BE TRANSFERRED TO THE CRIMINAL DIVISION OF THE SUPERIOR COURT FOR CRIMINAL
5 PROSECUTION IF ALL OF THE FOLLOWING APPLY:

6 1. THE JUVENILE IS CHARGED WITH A VIOLATION OF TITLE 13, CHAPTER 16 OR
7 18 INVOLVING A CLASS 5 OR 6 FELONY.

8 2. THE JUVENILE WAS UNDER SEVENTEEN YEARS OF AGE AT THE TIME OF THE
9 COMMISSION OF THE OFFENSE.

10 3. THE OFFENSE DID NOT INVOLVE THE USE OF A DEADLY WEAPON OR DANGEROUS
11 INSTRUMENT OR THE INFILCTION OF SERIOUS PHYSICAL INJURY.

12 4. THE JUVENILE IS NOT A CHRONIC FELONY OFFENDER AS DEFINED IN SECTION
13 13-501.